STIPULATION REGARDING THE HOLIDAY CVS MATTER

The "Respondents" in the *Holiday* case (attached hereto) are: (1) CVS Pharmacy #219, located at 3798 Orlando Drive, Sanford, FL 32773; and (2) CVS Pharmacy #5195, located at 4639 W. First Street, Sanford, Florida 32771.

DEPARTMENT OF JUSTICE Drug Enforcement Administration [Docket Nos. 12-37 and 12-38] Holiday CVS, L.L.C., d/b/a CVS/ Pharmacy Nos. 219 and 5195; Decision and Order On June 8, 2012, Chief Administrative Law Judge (ALJ) John J. Mulrooney II, issued the attached Recommended Decision. Both parties filed Exceptions to the ALJ's decision. Having considered the record in its entirety, including the parties' Exceptions, I have decided to adopt the ALJ's recommended rulings, findings of fact (except as discussed below), conclusions of law, and proposed sanction. A discussion of Respondents' Exceptions follows.1 PLAINTIFFS TRIAL P-42147-A



In enacting the Controlled Substances Act, Congress created a comprehensive and closed system for regulating the distribution of those controlled substances, which have legitimate medical uses, to prevent the diversion of these substances to those who would either abuse them or sell them to those who do. See Gonzales v. Oregon, 546 U.S. 243, 250 (2006). One of the fundamental features of this scheme is the requirement that all persons who seek to engage in the legitimate manufacture, distribution, or dispensing of a controlled substance must first obtain a registration from the Attorney General authorizing them to do so. See 21 U.S.C. 822(a). And to protect the public from those practitioners who engage in the diversion of controlled substances, Congress authorized the

Attorney General to revoke the registration of a practitioner upon finding, *inter alia*, that the practitioner "has committed such acts as would render his registration * * * inconsistent with the public interest." *Id.* sec. 824(a)(4).

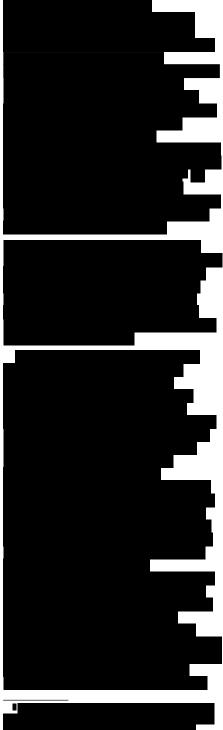
It is manifest that Respondents' conduct in filling prescriptions issued by a practitioner whose registration had been revoked undermines the



So too, those who engage in a highly regulated industry are expected to keep informed of regulatory developments which affect their industry. See United States v. Southern Union Co., 630 F.3d 17, 31 (1st Cir. 2010) ("[T]hose who manage companies in highly regulated industries are not unsophisticated * * *. It is part of [a company's] business to keep abreast of government regulation.").



Accordingly, Respondents' contention that the evidence does not establish that they (or their pharmacists) had actual knowledge of the revocation of Dr. Lynch's registration is wholly unavailing. Given that Respondents continued filling Lynch's unlawful prescriptions for more than six months after the Order became effective, and in the case of CVS #219 did so repeatedly, this conduct is sufficiently egregious



Tr. 694.





